



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 1, 2022

BY ECF

The Honorable Gregory H. Woods
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Ethan Phelan Melzer*, S1 20 Cr. 314 (GHW)

Dear Judge Woods:

Pursuant to the Court's pretrial order, the parties jointly submit the following brief description of the case, and brief overview of the applicable law, to be read to the jury as part of the Court's initial instructions prior to opening statements at the trial in this matter:

This is a criminal case. The defendant, Ethan Melzer, has been charged in an Indictment with violating federal laws. The Indictment contains seven counts. At the outset, you should know that the Indictment is not proof of anything; it is simply an allegation that Mr. Melzer has committed crimes. Mr. Melzer has pled not guilty and therefore denies the allegations.

The Government alleges that while he was an active-duty member of the U.S. Army stationed overseas, Mr. Melzer plotted an attack on his own unit with members of an extremist group. In particular, the Government alleges that Melzer provided sensitive information about, among other things, his unit's scheduled deployment to another overseas military facility, the number of soldiers who would be guarding the facility, and their vulnerabilities to an attack.

The Indictment contains the following seven counts: Count One of the Indictment charges the defendant with participating in a conspiracy to murder U.S. nationals abroad. Count Two charges the defendant with attempting to murder U.S. nationals abroad. Count Three charges the defendant with participating in a conspiracy to murder U.S. service members. Count Four charges the defendant with attempting to murder U.S. service members. Count Five charges the defendant with providing and attempting to provide material support and resources for terrorism. Count Six charges the defendant with illegally transmitting national defense information. And Count Seven charges the defendant with illegal delivery of national defense information.

The Government bears the burden of proof in a criminal case, which means that in order for you to find Mr. Melzer guilty, the Government must prove each element of the charged crimes beyond a reasonable doubt. Mr. Melzer has no burden of proof, which means that he has no obligation to present any evidence or to testify on his own behalf, and that you must presume him innocent of all charges unless and until the Government proves him guilty. At the end of the trial

I'm going to give you more detailed instructions about the law that applies here, and you will have a verdict sheet that will guide you through your deliberations.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

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cc: Defense Counsel (by ECF)